

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF SOUTH CAROLINA

Bernard Smith, #00360-016,	)	
	)	C/A No. 3:07-65-MBS
Plaintiff,	)	
	)	
vs.	)	
	)	
Bureau of Prison, Mid Atlantic Regional	)	<b>O R D E R</b>
Office; and United States of America,	)	
	)	
Defendants.	)	
	)	

Plaintiff Bernard Smith is an inmate in custody of the Federal Bureau of Prisons (FBOP). He brings this action pursuant to the Federal Tort Claims Act, 28 U.S.C. § 2671 et seq., and Bivens v. Six Unknown Named Agents of Federal Bur. of Narcotics, 403 U.S. 388 (1971).

This matter came before the court on Defendants' motion to dismiss or, in the alternative, for summary judgment, which motion was filed June 18, 2007. By order filed June 20, 2007, pursuant to Roseboro v. Garrison, 528 F.2d 309 (4<sup>th</sup> Cir. 1975), Plaintiff was advised of the dismissal procedure and the possible consequences if he failed to respond adequately. Plaintiff filed a response to Defendants' motion on July 30, 2007.

In accordance with 28 U.S.C. § 636(b) and Local Rule 73.02, D.S.C., this matter was referred to United States Magistrate Judge Joseph R. McCrorey for pretrial handling. On December 6, 2007, the Magistrate Judge filed a Report and Recommendation in which he recommended that Defendants' motion to dismiss be granted. Plaintiff filed no response to the Report.

The Magistrate Judge makes only a recommendation to this court. The recommendation has no presumptive weight. The responsibility for making a final determination remains with this court. Mathews v. Weber, 423 U.S. 261, 270 (1976). The court is charged with making a de novo

determination of any portions of the Report and Recommendation to which a specific objection is made. The court may accept, reject, or modify, in whole or in part, the recommendation made by the Magistrate Judge or may recommit the matter to the Magistrate Judge with instructions. 28 U.S.C. § 636(b)(1). In the absence of objections to the Report, this court is not required to give any explanation for adopting the recommendation. Camby v. Davis, 718 F.2d 198, 199 (4th Cir. 1983).

The court has carefully reviewed the record. The court adopts the Report and Recommendation and incorporates it herein by reference. Defendants' motion to dismiss (Entry 11) is granted.

**IT IS SO ORDERED.**

/s/ Margaret B. Seymour  
United States District Judge

Columbia, South Carolina

January 14, 2008